

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims replaces all prior versions, and listings, of claims in the application. Reexamination and reconsideration in light of the proposed amendments and the following remarks are respectfully requested.

Claim Amendments

In this response, the subject matter of claim 4 has been introduced into claim 1 and claim 4 has been cancelled. Inasmuch as claim 4 has been indicated as containing allowable subject matter it is submitted that this amendment is such as to place claims 1-3 and 5-7 in *prima facie* condition for allowance.

Rejections under 35 USC § 103

The rejection of claims 8 and 11-12 under 35 USC (a) as being unpatentable over Bernadi et al. is respectfully traversed.

On page 4 of this Office Action the Examiner maintains that a "card" is a printed document. It is noted that the Examiner has not advanced any evidence to support this position and is basically proffering an unsubstantiated opinion. Indeed, the rejection states that Bernadi et al. reference "teaches a RFID card that is used to pay for items (abstract)." (Emphasis added)

However, neither of these positions are well taken. Bernadi et al. in fact discloses:

[0032] FIG. 1A illustrates an exemplary RFID transaction system 100A in accordance with the present invention, wherein exemplary components for use in completing a **fob** transaction are depicted. In general, the operation of system 100A may begin when **fob 102** is presented for payment, and is interrogated by RFID reader 104 or, alternatively, interface 134. **Fob 102** and RFID reader 104 may then engage in mutual authentication after which the transponder 102 may provide the transponder identification and/or account identifier to the RFID reader 104 which may

further provide the information to the merchant system 130 POS device 110.

[0033] System 100A may include a **fob 102** having a transponder 114 and a RFID reader 104 in RF communication with fob 102. Although the present invention is described with respect to a fob 102, the invention is not to be so limited. Indeed, system 100 may include any device having a transponder which is configured to communicate with a RFID reader 104 via RF communication. **Typical devices may include, for example, a key ring, tag, card, cell phone, wristwatch or any such form capable of being presented for interrogation.** (Emphasis added)

Further, it suggests that the **Fob** can have a USB connector.

[0034] The RFID reader 104 may be configured to communicate using a RFID internal antenna 106. Alternatively, RFID reader 104 may include an external antenna 108 for communications with fob 102, where the external antenna may be made remote to the RFID reader 104 using a suitable cable and/or data link 120. RFID reader 104 may be further in communication with a merchant system 130 via a data link 122. The system 100A may include a transaction completion system including a point of interaction device such as, for example, a merchant point of sale (POS) device 110 or a computer interface (e.g., user interface) 134. In one exemplary embodiment the transaction completion system may include a merchant system 130 including the POS device 110 in communication with a RFID reader 104 (via data link 122). As described more fully below, the transaction completion system **may include the user interface 134**

connected to a network 136 and to the transponder via a USB connector 132. (Emphasis added)

It is therefore submitted that Bernadi et al. do not suggest that a card per se be used as the disclosed fob. It merely suggests a card as one of a number of devices which can be used as a fob. Unless the PTO can show that there is some reason for the hypothetical person of ordinary skill to consider the brief, passing reference to a card (possibly with a USB port) as different from a cell phone or a wrist watch, to be considered as suggesting a "printed document", it is submitted that this rejection should be withdrawn.

That is to say, for a *prima facie* case of obviousness it is necessary to show that the hypothetical person of ordinary skill would consider a device such as , **a key ring, tag, card, cell phone, wristwatch or any such form**, which also can have a **USB connector port**, to be understood as being a "printed document" before a tenable position can be considered to have been established.

Indeed, the rejection starts out with reference to a card and then, for no given reason, converts this to a document/card. Irrespective of this unexplained transition, the position that Bernadi et al. specifically suggest a card is simply not tenable.

The argument that while Bernadi et al. do not disclose printing on the card [sic] fob, but it is known to provide printing on cards such as a credit card, a smart card or a transaction card and the like, and for this reason the hypothetical person of ordinary skill would consider a credit card or the like with printing on it to be a "printed document" is submitted as being about as tenable as considering a cell phone with printing on it be a "printed document."

The reasons advanced in connection with the rejection of claims 2-3, 5, 8 etc., are also untenable. For example, the position that because an antenna (for example) is adapted to resist stresses caused by bending, flexing and the like during everyday usage, it is (ergo) "resistant to tampering", is clearly indefensible. Some cell phones have antenna projecting out of the main body. They are sufficiently flexible to resist limited amounts of bending and flexing, but they are exposed and as such clearly not resistant to tampering. Perhaps it was intended to assert that the encasement of such elements within inseparable portions of a card or a cell phone or the like, prevents

tampering. However, this was not advanced. Besides, to have such types of inseparable portions in a printed document would demand a level of technology not envisaged by Bernadi et al.

The rejection of the method claims is of course fatally flawed for at least the reasons advanced above, including the absence of any suggestion of a printed document. There is no suggestion at all to be found in Bernadi et al. of printing on the disclosed fob.

Claim 8, for example, calls for steps a-e. These are dismissed as being obvious simply in that it "is obvious that information is determined before it is printed and written." This is quite insufficient.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." M.P.E.P. § 2143.03. Accord M.P.E.P. § 706.02(j).

The rejection fails to show where each of the claimed steps are disclosed/suggested in the Bernadi et al. document, and therefore fails.

Conclusion

The fact that claim 1 has been amended via the inclusion of allowable subject matter should not be taken to infer that any position/argument advanced in the rejection of the claims, is acquiesced to.

It is respectfully submitted that the claims pending in this application contain subject matter which is neither disclosed nor rendered obvious by the art of record. Favorable reconsideration and allowance of this application is courteously solicited.

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